

REMARKS

Claims 1-43 are pending in the present application. The Examiner requires electing one of the following groups for examination:

1. Group I, claims 1-3 drawn to “a ligand binding to the hypusine region of eukaryotic initiation factor 5A;”
2. Group II, claims 4-12 drawn to “a method of distinguishing proliferating from non-proliferating cells;”
3. Group III, claims 13-15 drawn to “a method of diagnosing a hyperproliferative disorder;”
4. Group IV, claims 16-21 drawn to “a method of diagnosing intraepithelial neoplasia;”
5. Group V, claims 22-24 drawn to “a method of determining the concentration of hypusine in a biological sample;”
6. Group VI, claims 25-27 drawn to “a method for inhibiting in a cell comprising administering a nucleic acid molecule encoding an antibody;”
7. Group VII, claims 28-37 drawn to “a method of screening a therapeutic agent;”
8. Group VIII, claim 38 drawn to “a method of quantifying the response to proliferation-modifying therapies;”
9. Group IX, claims 39-40 drawn to “a ligand specific for the folate-binding region of eukaryotic translation initiation factor 5A;”
10. Group X, claims 41-42 drawn to “a method for identifying folate derivatives;”
11. Group XI, claim 43 drawn to “a method for inhibiting in the cell the biological activity of the folate-binding region.”

The Examiner acknowledges that if Applicants elect Group I (product claims), Applicants may successfully achieve examination of Groups II-VIII (method claims that depend from Group I) once the claims of Group I are found patentable. That is, Groups II-VIII (process claims) will be considered for rejoinder once the product claims of Group I are found patentable.

In view of the foregoing, Applicants elect Group I, “a ligand binding to the hypusine

region of eukaryotic initiation factor 5A" with traverse. Applicants submit that under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicant respectfully submits that the groups designated by the Examiner fail to define methods and compositions with properties so distinct as to warrant separate examination and search. The Examiner's assertions to the contrary notwithstanding, Applicant respectfully submits that conjoint examination and inclusion of all of the claims of the present application would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, is in order.

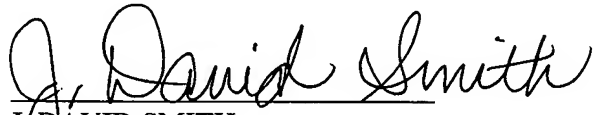
FEES

No fees are believed necessary in connection with the present submission; however, should this be in error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overage.

CONCLUSION

It is believed that all of the claims are patentable and early notification as such is earnestly solicited. If any issues may be resolved by way of telephone, the Examiner is invited to call the undersigned at the telephone number indicated below.

Respectfully submitted,

A handwritten signature in cursive script that reads "J. David Smith". The signature is written in black ink and is positioned above a horizontal line.

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